

## § 30.106

## 25 CFR Ch. I (4–1–07 Edition)

under § 30.113, the school must use the Secretary's definition of academic content and achievement standards, assessments, and AYP.

### **§ 30.106 How does a tribal governing body or school board propose an alternative definition of AYP?**

If a tribal governing body or school board decides that the definition of AYP in § 30.104 is inappropriate, it may decide to waive all or part of the definition. Within 60 days of the decision to waive, the tribal governing body or school board must submit to the Secretary a proposal for an alternative definition of AYP. The proposal must meet the requirements of 20 U.S.C. 6311(b) and 34 CFR 200.13–200.20, taking into account the unique circumstances and needs of the school or schools and the students served.

### **§ 30.107 What must a tribal governing body or school board include in its alternative definition of AYP?**

(a) An alternative definition of AYP must meet the requirements of 20 U.S.C. 6311(b)(2) of the Act and 34 CFR 200.13–200.20, taking into account the unique circumstances and needs of the school or schools and the students served.

(b) In accordance with 20 U.S.C. 6311(b) of the Act and 34 CFR 200.13–200.20, an alternative definition of AYP must:

- (1) Apply the same high standards of academic achievement to all students;
- (2) Be statistically valid and reliable;
- (3) Result in continuous and substantial academic improvement for all students;
- (4) Measure the progress of all students based on a high-quality assessment system that includes, at a minimum, academic assessments in mathematics and reading or language arts;
- (5) Measure progress separately for reading or language arts and for mathematics;
- (6) Unless disaggregation of data cannot yield statistically reliable information or reveals personally identifiable information, apply the same annual measurable objectives to each of the following:
  - (i) The achievement of all students;
  - and

(ii) The achievement of economically disadvantaged students, students from major racial or ethnic groups, students with disabilities, and students with limited English proficiency;

- (7) Establish a starting point;
- (8) Create a timeline to ensure that all students are proficient by the 2013–2014 school year;
- (9) Establish annual measurable objectives;
- (10) Establish intermediate goals;
- (11) Include at least one other academic indicator which, for any school with a 12th grade, must be graduation rate; and
- (12) Ensure that at least 95 percent of the students enrolled in each group under § 30.107(b)(6) are assessed.

(c) If a Bureau-funded school's alternative definition of AYP does not use a State's academic content and student achievement standards and academic assessments, the school must include with its alternative definition the academic standards and assessment it proposes to use. These standards and assessments must meet the requirements in 20 U.S.C. 6311(b) and 34 CFR 200.1–200.9.

### **§ 30.108 May an alternative definition of AYP use parts of the Secretary's definition?**

Yes, a tribal governing body or school board may take part of the Secretary's definition and propose to waive the remainder. The proposed alternative definition of AYP must, however, include both the parts of the Secretary's AYP definition the tribal governing body or school board is adopting and those parts the tribal governing body or school board is proposing to change.

#### TECHNICAL ASSISTANCE

### **§ 30.109 Will the Secretary provide assistance in developing an alternative AYP definition?**

Yes, the Secretary through the Bureau, shall provide technical assistance either directly or through contract to the tribal governing body or the school board in developing an alternative AYP definition. A tribal governing body or school board needing assistance must submit a request to the Director of

OIEP under § 30.110. In providing assistance, the Secretary may consult with the Secretary of Education and may use funds supplied by the Secretary of Education in accordance with 20 U.S.C. 7301.

**§ 30.110 What is the process for requesting technical assistance to develop an alternative definition of AYP?**

(a) The tribal governing body or school board requesting technical assistance to develop an alternative definition of AYP must submit a written request to the Director of OIEP, specifying the form of assistance it requires.

(b) The Director of OIEP must acknowledge receipt of the request for technical assistance within 10 days of receiving the request.

(c) No later than 30 days after receiving the original request, the Director of OIEP will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.

**§ 30.111 When should the tribal governing body or school board request technical assistance?**

In order to maximize the time the tribal governing body or school board has to develop an alternative definition of AYP and to provide full opportunity for technical assistance, the tribal governing body or school board should request technical assistance before formally notifying the Secretary of its intention to waive the Secretary's definition of AYP.

APPROVAL OF ALTERNATIVE DEFINITION

**§ 30.113 How does the Secretary review and approve an alternative definition of AYP?**

(a) The tribal governing body or school board submits a proposed alternative definition of AYP to the Director, OIEP within 60 days of its decision to waive the Secretary's definition.

(b) Within 60 days of receiving a proposed alternative definition of AYP, OIEP will notify the tribal governing body or the school board of:

(1) Whether the proposed alternative definition is complete; and

(2) If the definition is complete, an estimated timetable for the final decision.

(c) If the proposed alternative definition is incomplete, OIEP will provide the tribal governing body or school board with technical assistance to complete the proposed alternative definition of AYP, including identifying what additional items are necessary.

(d) The Secretaries will review the proposed alternative definition of AYP to determine whether it is consistent with the requirements of 20 U.S.C. 6311(b). This review must take into account the unique circumstances and needs of the schools and students.

(e) The Secretaries shall approve the alternative definition of AYP if it is consistent with the requirements of 20 U.S.C. 6311(b), taking into consideration the unique circumstances and needs of the school or schools and the students served.

(f) If the Secretaries approve the alternative definition of AYP:

(1) The Secretary shall promptly notify the tribal governing body or school board; and

(2) The alternate definition of AYP will become effective at the start of the following school year.

(g) The Secretaries will disapprove the alternative definition of AYP if it is not consistent with the requirements of 20 U.S.C. 6311(b). If the alternative definition is disapproved, the tribal governing body or school board will be notified of the following:

(1) That the definition is disapproved; and

(2) The reasons why the proposed alternative definition does not meet the requirements of 20 U.S.C. 6311(b).

(h) If the Secretaries deny a proposed definition under paragraph (g) of this section, they shall provide technical assistance to overcome the basis for the denial.

**Subpart B—Assessing Adequate Yearly Progress**

**§ 30.114 Which students must be assessed?**

All students in grades three through eight and at least once in grades ten